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March 13, 2024

BY ECF AND EMAIL

The Honorable Katherine Polk Failla
United States District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

MEMO ENDORSED

Re: In re Tether and Bitfinex Crypto Asset Litigation, No. 19 Civ. 9236 (S.D.N.Y.)

Dear Judge Failla:

We write on behalf of the B/T Defendants to seek permission pursuant to Your Honor's Individual Rules of Practice in Civil Cases to file appropriately redacted versions of the B/T Defendants' (i) Opposition to Plaintiffs' Motion for Leave to Amend (the "Opposition"), (ii) Motion for Leave to File a Sur-Reply (Dkt. No. 519), and (iii) Proposed Sur-Reply (Dkt. No. 519-1), and to maintain under seal exhibits A, B, H, and I to the Declaration of Natascha Born in support of the B/T Defendants' Opposition (Dkt. Nos. 506-1, 506-2, 506-8, 506-9) (collectively, the "Exhibits").

The B/T Defendants had initially sought leave to file all of these documents under seal because they discuss the Anonymous Trader, and reference and characterize the Anonymous Trader's deposition and the Anonymous Trader's declaration dated September 5, 2020. (Dkt. Nos. 504, 518.) The B/T Defendants explained that, consistent with the Court's prior Orders regarding the Anonymous Trader's confidentiality (Dkt. Nos. 195, 215, 420, 439), they intended to confer with the Anonymous Trader regarding appropriate redactions and to file public versions promptly thereafter (Dkt. Nos. 504, 518.) The Court granted the B/T Defendants' request to provisionally seal their Opposition and the accompanying exhibits. (Dkt. No. 510.)

In an order dated December 18, 2023, the Court then provided additional guidance concerning the treatment of information that might reveal the Anonymous Trader's identity and ordered the parties "to meet and confer with the Anonymous Trader regarding the Anonymous Trader's proposed redactions in this matter." (Dkt. No. 511.) The Court instructed that references to the Anonymous Trader should be redacted "to the extent that those references, in whole or in part, allow for the reverse identification of the Anonymous Trader," along with "references to specifically-identifiable trades or patterns of trades." (*Id.*) The Court further instructed the parties to "adopt a conservative approach to redactions, given the Anonymous Trader's stated privacy and safety interests in the case, and the potentially lasting consequences of inadvertent disclosure of sensitive information." (*Id.*)

Consistent with the Court's December 18, 2023 Order, the B/T Defendants sent the Anonymous Trader proposed redactions to their briefing on Plaintiffs' Motion for Leave to Amend (Dkt. Nos.

505, 519, and 519-1, collectively the “Briefing”). The Anonymous Trader proposed additional redactions, expressing his strong viewpoint that those additional redactions are necessary to safeguard the Anonymous Trader’s confidentiality and prevent the reverse identification of the Anonymous Trader’s identity. Counsel to the B/T Defendants then met and conferred with the Anonymous Trader’s counsel, who confirmed that the Anonymous Trader is adamant that the redactions are necessary to protect the Anonymous Trader’s privacy and safety. Consistent with the Court’s guidance that the parties should “adopt a conservative approach to redactions,” the B/T Defendants seek leave to file the Briefing with the redactions proposed and approved by the Anonymous Trader pursuant to the Court’s December 18, 2023 Order. (Dkt. No. 511.)

In addition, the B/T Defendants seek leave to maintain under seal the Exhibits. Exhibit A, the September 5, 2020 declaration of the Anonymous Trader and email correspondence regarding the declaration, was previously filed under seal at Dkt. No. 190. Exhibit B is the Anonymous Trader’s deposition transcript, which the parties agreed to maintain subject to a strict Attorneys’ Eyes-Only designation in accordance with the Court’s order regarding the deposition. (Dkt. Nos. 420, 439.) Exhibit H is an excerpt of an exchange among the Anonymous Trader, Paolo Ardoino, Giancarlo Devasini, and Claudia Lagorio that reflects the Anonymous Trader’s personally identifiable information as well as details of certain specific transactions. Exhibit I is the transcript of Plaintiff Pinchas Goldshtein’s deposition, which Plaintiffs asked the B/T Defendants to maintain confidential and which discusses Mr. Goldshtein’s financial information in detail. These Exhibits were previously filed under seal at Dkt. Nos. 506-1 (Ex. A), 506-2 (Ex. B), 506-8 (Ex. H), and 506-9 (Ex. I), and the B/T Defendants respectfully seek permission to maintain the Exhibits under seal.

The B/T Defendants are submitting together with this motion (1) sealed copies of the Briefing with the proposed redactions highlighted in accordance with Individual Rule of Practice 9.B.i and (2) the proposed public versions of their Briefing and the exhibits thereto.

Respectfully submitted,

/s/ Elliot Greenfield

The B/T Defendants' application to file appropriately redacted versions of their (i) Opposition to Plaintiffs' Motion for Leave to Amend (the "Opposition"); (ii) Motion for Leave to File a Sur-Reply (Dkt. #519); and (iii) Proposed Sur-Reply (Dkt. #519-1), is hereby GRANTED. Likewise, the Court GRANTS the B/T Defendants' request for leave to maintain under seal exhibits A, B, H, and I to the Declaration of Natascha Born in support of the B/T Defendants' Opposition. (Dkt. # 506-1, 506-2, 506-8, 506-9).

The Court, however, DENIES the B/T Defendants' request for leave to file a sur-reply (Dkt. #519), which request Plaintiffs vigorously oppose (Dkt. #521). Should the Court determine that further briefing would be useful, it will promptly reach out to the parties.

The Clerk of Court is directed to maintain docket entries 519, 521, 525, and 526 under seal viewable to the Court and the parties only.

The Clerk of Court is directed to terminate the pending motions at docket entries 518, 519, 520, 523, 526, and 528.

Dated: March 14, 2024
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE